

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFFERY W MILINICH,

Petitioner,

v.

PAM AHLIN,

Respondent(s).

No. C 09-02612 CRB (PR)

ORDER DENYING REQUEST FOR
APPOINTMENT OF COUNSEL

Petitioner's request for appointment of counsel is DENIED without prejudice. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986) (unless an evidentiary hearing is required, the decision to appoint counsel in habeas corpus proceedings is within the discretion of the district court). Petitioner clearly presented his claims for relief in the petition and an order to show cause issued. Accord Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984) (although petitioner had no background in law, denial of appointment of counsel within discretion of district court where petitioner clearly presented issues in petition and accompanying memorandum). The court will appoint counsel on its own motion if an evidentiary hearing is later required. See Knaubert, 791 F.2d at 728 (appointment of counsel mandatory if evidentiary hearing is required).

The clerk shall terminate the motion in docket number 4.

SO ORDERED.

DATED: March 12, 2010



CHARLES R. BREYER
United States District Judge